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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/536,727	03/28/2000	Michael T. Rossides		5508

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Michael T Rossides  
11167 E Mirasol Circle  
Scottsdale, AZ 85259

EXAMINER

RETTA, YEHDEGA

ART UNIT PAPER NUMBER

3622

DATE MAILED: 12/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/536,727

Applicant(s)

ROSSIDES, MICHAEL T.

Examiner

Yehdega Retta

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

Art Unit: 3622

**DETAILED ACTION**

***Response to Amendment***

This office action is responsive to amendment filed October 29, 2003.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. A single claim which claims both an apparatus and the method steps of using the apparatus is indefinite under 35 U.S.C. 112, second paragraph (see MPEP 2173.05(p) (II) PRODUCT AND PROCESS IN THE SAME CLAIM).

Claim 7 recites method steps and structural limitations, such as “an advertiser process for” and a “recipient process for”. Applicant is required to amend the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3622

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldhaber U.S. No. 5,855,008, in view of Walker et al. U.S. Patent No. 6,086,477 and further in view of Vance U.S. Patent No. 6,267,672.

Regarding claim 7, Goldhaber teaches entering an offer if user pays attention to a specified message and if user satisfies a set of target audience characteristics; presenting an interface enabling access to accept the offer, registering acceptance (see col. 7. lines 23-67, col. 11 line 49 to col. 12 line 45 and col. 14 line 65 to col. 17 line 25). Goldhaber teaches paying cash to advertisement viewers, however does not teach providing the value of the chance to win a payoff, (expected value including a Payoff). Walker teaches paying expected value including a payoff to players (see col. 9 line 1 to col. 10 line 48). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Goldhaber's payment to advertisement viewers and Walker lottery system. Randomly selecting winners and paying expected value of the award to selected ones reduce the outcome of bets or winners. Therefore, one would be motivated to provide chance of winning to all participants and paying Expected value to only selected winner in order to reduce the outcome. Both Goldhaber and Walker failed to teach inspecting winners, if they satisfy offer condition, it is taught in Vance. Vance teaches winners submit information prior to receiving the prize (see col. 6 lines 34-54). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Goldhaber's attention brokerage and Walker's payment of expected value and Vance verification of winners, in order to prevent dishonest consumers from fraudulently claiming prizes as taught by Vance (see col. 6 lines 34-54).

Art Unit: 3622

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Courts U.S. Patent No. 6,260,019 Web-based prediction marketplace.

Walker et al. U.S. Patent No. 6,216,111, telemarketing presentation.

Wood et al. U.S. Patent No. 5,511,781 award wagering system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (703) 305-0436. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (703) 305-8469. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Yehdega Retta  
Examiner  
Art Unit 3622

YR